

1  
2  
3  
4  
5  
6  
7  
8  
9

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF MORTGAGE LENDING**

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

In re:

James B. Nutter & Company, a Missouri  
Corporation

Respondent.

22  
23  
24  
25  
26  
27  
28

**STIPULATED SETTLEMENT AGREEMENT**

The licensing and regulation of mortgage brokers, mortgage bankers and escrow agencies in the State of Nevada is governed by Chapter 645B, Chapter 645E and Chapter 645A of the Nevada Revised Statutes (hereinafter "NRS"), respectively, and the regulations promulgated thereunder. The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter the "Division") has the general duty to exercise supervision and control over mortgage brokers, mortgage bankers and escrow agencies pursuant to these chapters. Pursuant to that authority, the Division hereby enters into the following Stipulated Settlement Agreement (hereinafter "Agreement") with James B. Nutter & Company, a Missouri (hereinafter "Respondent") as follows:

**RECITALS**

WHEREAS, Respondent is a Missouri corporation and currently Respondent's status with the Nevada Secretary of State is "active."

WHEREAS, pursuant to NRS 645E, Respondent was issued a mortgage banker license on May 24, 2007, and its current status with the Division is listed as "active license."

WHEREAS, at all relevant times herein mentioned, until January 26, 2010, Respondent had only one office licensed by the Division to conduct mortgage banker activity,

1 with that office being located at 222 S. Rainbow Blvd., Suite 216, Las Vegas, Nevada 89147  
2 (hereinafter "Respondent's Licensed Office").

3 WHEREAS, on January 26, 2010, Respondent was issued a license to conduct  
4 mortgage banker activity at its office located at 4153 Broadway, Kansas City, Missouri 64111.

5 WHEREAS, pursuant to NRS 645E.300, the Division is charged with conducting  
6 "...such investigations as may be necessary to determine whether any person has violated  
7 any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the  
8 Commissioner." See, NRS 645E.300(2)(c);

9  
10 WHEREAS, pursuant to NRS 645E.300, the Division is further charged with conducting  
11 "...such other examinations, periodic or special audits, investigations and hearings as may be  
12 necessary and proper for the efficient administration of the law of this State regarding  
13 mortgage bankers..." See, NRS 645E.300(2)(e);

14 WHEREAS, pursuant to NRS 645E.900, unless a person is exempt from Chapter 645E  
15 of NRS and complies with exemption requirements, "(i)t is unlawful for any person to offer or  
16 provide any of the services of a mortgage banker or otherwise to engage in, carry on or hold  
17 himself out as engaging in or carrying on the business of a mortgage banker without first  
18 obtaining a license as a mortgage banker pursuant to this chapter...";

19  
20 WHEREAS, during an annual examination of Respondent's books and records which  
21 commenced on October 6, 2009, the Division discovered that at all relevant times herein  
22 mentioned Respondent conducted mortgage banker activity involving five (5) loans on  
23 properties in Nevada out of Respondent's office located at 4153 Broadway, Kansas City,  
24 Missouri 64111 prior to the office being licensed by the Division on January 26, 2010.

25 WHEREAS, pursuant to NRS 645E.670, with limited exceptions, "(f)or each violation  
26 committed by a mortgage banker, the Commissioner may impose upon the mortgage banker  
27 an administrative fine of not more than \$10,000, may suspend, revoke or place conditions  
28

1 upon his license, or may do both, if the mortgage banker...(i)s grossly negligent or  
2 incompetent in performing any act for which he is required to be licensed pursuant to the  
3 provisions of this chapter...(d)oes not conduct his business in accordance with law or has  
4 violated any provision of this chapter, a regulation adopted pursuant to this chapter or an  
5 order of the Commissioner....” See, NRS 645E.670(2)(b),(c).

6 WHEREAS, after settlement negotiations, the Division and Respondent (collectively,  
7 the “Parties”) wish to resolve this matter without the necessity of the filing of a complaint and  
8 a formal hearing.

9 NOW, THEREFORE, in consideration of the representations, covenants and  
10 conditions set forth herein, IT IS HEREBY STIPULATED AND AGREED by the Parties that  
11 the purported violations of NRS shall be settled on the following terms and conditions:  
12

13 1. Respondent acknowledges that it conducted mortgage banker activities in Nevada  
14 out of its unlicensed Kansas City, Missouri office. Respondent and the Division agree,  
15 however, that while Respondent’s above-described actions may have been inconsistent with  
16 the provisions of NRS 645E, these actions were neither willful nor intentional.

17 2. Respondent shall, pursuant to NRS 645E.670 and/or NRS 622.400, pay to the  
18 Division an administrative fine in the amount of Ten Thousand Dollars and No Cents  
19 (\$10,000.00). Respondent shall make payment, in full, to the Division of the administrative  
20 fine upon its execution of this Agreement.

21 3. Respondent further agrees that in the event it violates any of the provisions of this  
22 Agreement, the Division shall retain any and all remedies available to it in accordance with  
23 NRS Chapter 645E.  
24

25 4. The Parties agree and acknowledge that this Agreement shall constitute the  
26 complete and final resolution of any issues arising out of the Division’s investigation into  
27 Respondent’s conduct as specified herein.  
28

1           5. The Parties represent and warrant that the persons executing this Agreement on  
2 behalf of each party has full power and authority to do so, and has the legal capacity to  
3 conduct the legal obligations assigned to it hereunder.

4           6. Respondent further acknowledges and agrees that the Division shall keep the  
5 original of this Agreement.

6           7. This Agreement may be signed in counterparts and a facsimile signature shall be  
7 deemed as valid as an original; however, Respondent shall immediately forward all original  
8 signature pages to the Division.

9           8. This Agreement, as well as the rights and obligations of the Parties hereto, shall be  
10 interpreted, governed, and construed pursuant to the laws of the State of Nevada.

11           9. Any action to enforce this Agreement shall be brought in the Eighth Judicial District  
12 Court of the State of Nevada in and for Clark County.

13           10. If the Division is successful in any action to enforce this Agreement, the court may  
14 award it attorney's fees. It is specifically agreed that reasonable attorney's fees for the State-  
15 employed attorneys shall be \$142.55 per hour.

16           11. Failure to declare a breach or the actual waiver of any particular breach of this  
17 Agreement or its material terms, by either party, shall not operate as a waiver by such party of  
18 any of its rights or remedies as to any other breach.

19           12. Respondent has the right to retain an attorney to review this Agreement at its sole  
20 cost and expense and has freely and voluntarily chosen not to do so.

21           13. Other than the fine set forth herein, each side shall pay its own costs and fees,  
22 including attorney's fees.

23           14. If any provision contained in this Agreement is held to be unenforceable by a court  
24 of law or equity, this Agreement shall be construed as if such a provision(s) did not exist and  
25 the unenforceability of such provision(s) shall not be held to render any other provision(s) of  
26  
27  
28

1 this Agreement unenforceable.

2 15. This Agreement constitutes the entire agreement of the Parties, and it is intended  
3 as a complete and exclusive statement of the promises, representations, negotiations, and  
4 discussions of the Parties. Unless otherwise expressly authorized by its terms, this  
5 Agreement shall be binding upon the Parties unless the same is amended in writing, signed  
6 by the respective Parties hereto, and approved by the Office of the Attorney General.

7 16. **NOTICE TO RESPONDENT:** By executing this Agreement, you hereby agree that  
8 you are waiving certain rights as set forth herein. As Respondent, you are specifically  
9 informed that you have the right to request that the Division file an administrative complaint  
10 against you, if one has not already been filed, and at any hearing on such a complaint, you  
11 would have the right to appear and be heard in your defense, either personally or through  
12 your counsel of choice. If the Division were to file a complaint, at the hearing, the Division  
13 would have the burden of proving the allegations in the complaint and would call witnesses  
14 and present evidence against you. You would have the right to respond and to present  
15 relevant evidence and argument on all issues involved. You would have the right to call and  
16 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter  
17 relevant to the issues involved.  
18  
19

20 You would have the right to request that the Commissioner of the Division issue  
21 subpoenas to compel witnesses to testify and/or offer evidence on your behalf. In making this  
22 request, you may be required to demonstrate the relevance of the witness's testimony and/or  
23 evidence. Other important rights you have are listed in NRS Chapter 645E and NRS  
24 Chapter 233B.

25 Respondent waives its rights to a hearing in this matter.  
26  
27  
28

17. Respondent understands and agrees that this Agreement may be used to show that past violations have occurred should any future disciplinary action be taken by the Division.

18. In consideration of the execution of this Agreement, Respondent, for itself, its owners, heirs, executors, administrators, successors, and assigns, hereby releases, remises, and forever discharges the State of Nevada, the Department of Business and Industry of the State of Nevada, the Division, and each of their members, agents, attorneys (including any and all employees of the Nevada Attorney General), and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims, and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have, or claim to have against any or all of the persons or entities named in this section, arising out of or by reason of the Division's examination of Respondent, and all other matters relating thereto.

19. Respondent hereby indemnifies and holds harmless the State of Nevada, the Department of Business and Industry of the State of Nevada, the Division, and each of their members, agents, and employees, and employees of the Nevada Attorney General in their individual and representative capacities against any and all claims, suits, and actions brought against said persons and/or entities by reason of the Division's examination of Respondent, this Agreement, and all other matters relating thereto, and against any and all expenses, damages, and costs, including court costs and attorney fees, which may be sustained by the persons and/or entities named in this section as a result of said claims, suits, and actions.

/ / /

///

///

THE NEXT PAGE IS THE SIGNATURE PAGE

1 IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed  
2 and intend to be legally bound thereby. This Agreement shall be deemed to be an order of  
3 the Commissioner.

4 Dated this 28 day of May, 2010.

5 James B. Nutter & Company

6  
7 By: James B. Nutter

8 Title: EXECUTIVE VICE PRESIDENT

9  
10  
11 Dated this 4<sup>th</sup> day of June, 2010.

12  
13 State of Nevada  
14 Department of Business and Industry  
15 Division of Mortgage Lending

16 By: Joseph L. Waltuch  
17 Joseph L. Waltuch, Commissioner  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

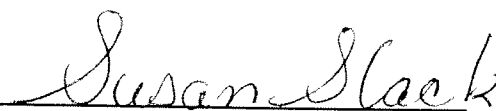
**CERTIFICATE OF SERVICE**

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on , June 7, 2010, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, **STIPULATED SETTLEMENT AGREEMENT** for **JAMES B. NUTTER & COMPANY, A MISSOURI CORPORATION**, addressed as follows:

**John W. Simpson  
Shook, Hardy & Bacon L.L.P.  
2555 Grand Boulevard  
Kansas City, Mo 64108**

**Certified Receipt Number: 7008 1830 0002 7959 6045**

**DATED this 4th day of June, 2010**

By:   
**Employee of the Division**